



Auto Body Association of Connecticut

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**TESTIMONY OF
AUTO BODY ASSOCIATION OF CONNECTICUT
BY
ANTHONY FERRAILO, PRESIDENT
SUPPORTING
HB-5655, AAC THE TAXATION OF PAINT USED IN MOTOR VEHICLE REPAIR
FINANCE, REVENUE & BONDING COMMITTEE
MARCH 18, 2015**

The Auto Body Association of Connecticut (ABAC), a statewide trade association of professionals dedicated to the advancement of the collision repair industry, through safe quality repairs for Connecticut consumers, respectfully submits the following comments regarding HB-5655:

The ABAC is very supportive of the intent behind House Bill 5655, "An Act Concerning The Taxation Of Paint Used In Motor Vehicle Repair." Specifically, the ABAC is supportive of the language and the intent of subpart (1) of the bill (See lines 1-3), which seeks to clarify the applicability of sales and uses taxes on wholesale sellers of paint used for motor vehicle repair. On behalf of our member shops and the collision repair industry at large in Connecticut, the ABAC would like to continue to ensure that when paint is purchased from a wholesaler, that purchase would be considered a "sale for resale".

Under the Regulations of Connecticut State Agencies, Department of Revenue Services, Section 12-407(2)(i)(M)-1 (the "Regulation" - a copy of which accompanies this testimony), the ABAC *would like to clarify* that subsection (2) of subpart (c) "Taxability of items used in rendering motor vehicle repair services", *does not pertain to* paints purchased in bulk by repair shops and subsequently used in auto repair on customer vehicles. Clarifying the Regulation would *allow for repair shops to continue to utilize this longstanding exception in the Regulation to purchase paint as a "sale for resale"*, which is consistent with the way industry practices have evolved, as well as, ABAC believes, the original intent of the Regulation.

The ABAC very much supports revision and/or clarification to Section 12-407(2)(i)(M)-1(c)(2). The auto body repair industry has dramatically evolved and modernized since

this regulation was last updated in 1999. Years ago, auto body shops would order paint from a supplier (wholesaler) specifically for use on a certain vehicle. That purchase was considered a sale for resale and nontaxable to the shop; the sales tax would be charged to and collected from the end user customer. The paint used in today's repair process is purchased differently than it was over 15 years ago. Most, if not all, auto body repair facilities purchase paint related materials in bulk form. The product is computer mixed as needed *for each individual repair job*. The totals are recorded and *billed to each specific repair job*. The sales tax is then to be charged to end user customer. The purchase of liquid paint related materials at the wholesale level should be likewise be nontaxable to the repair shop (sale for resale), and when product is mixed for each specific customer's job, taxes should be collected on final invoice to the end user customer. This scenario is already governed by subsection (c)(2) of the Regulation which exempts from taxation at the wholesale level: "Property purchased solely for a particular customer, as long as the charge for such materials will be separately stated on the bill to the customer and tax collected thereon." This modern system of purchasing paint and related materials and mixing only what is needed not only saves the consumer money, but also saves the environment from hazardous waste storage.

On behalf of the Auto Body Association of Connecticut, thank you for your time and attention to this important matter, not only for repair shops, but also for consumers. The ABAC is ready and willing to work with the sponsor of the bill, leaders and members of the Finance Committee, and the Department of Revenue Services to address our concerns.

Enumerated Services

Sec. 12-407(2)(i)(M)-1. Repair services to motor vehicles

(a) Definitions.

(1) The term “motor vehicle repair services” means the services of mending or bringing back to working order the body or any operating parts of a motor vehicle that was broken, damaged, malfunctioning or defective. The term “motor vehicle repair services” also includes the services of restoring, rebuilding or replacing any motor, engine, working parts, accessories, body or interior of the motor vehicle. The term “motor vehicle repair services” also includes all maintenance services that keep a motor vehicle in good working order by preventing its decline, failure, lapse or deterioration, including but not limited to replacing vehicle fluids (e.g., oil or coolant), lubricating the chassis, diagnostic testing, replacing spark plugs and filters, rotating tires, recharging the air conditioning system, rustproofing, painting or repainting, and applying fabric protection or paint sealant. The term “motor vehicle repair services” does not include the service of installing new parts or accessories that are not replacements for existing parts or accessories (e.g., customizing) or the service of towing or storing a motor vehicle.

(2) The term “motor vehicle” has the meaning ascribed to it in section 14-1a(47) of the general statutes, as from time to time amended.

(3)(A) An “integral part” means a part, such as an air or oil filter, alternator, battery, belt, hose, muffler, spark plug, tire or windshield wiper blade, that retains its separate identity even after being incorporated into a repaired motor vehicle.

(B) The term “integral part” does not include materials that do not retain their separate identity after being used to repair a motor vehicle, but are consumed by the service provider in repairing the motor vehicle, such as abrasives (e.g., sandpaper, emery paper and grinding wheels), acetylene, acrylic finishes, applicators, body putty, body work tools, brushes, cleaners, compound pads, drop cloths, enamels, flux, hand cleansers, lacquers, lead, masking tape, masking paper, mechanics’ tools, metal conditioners, oxygen, paint, painting tools, plastic filler, polishing and buffing pads, primers, removers (liquid and paste), resins (e.g., epoxy, polyester, fiberglass cloth and fiberglass matting), rollers, rubbing compound, rustproofing liquid, sealants, shellacs, solder, spray guns, stain, stencils, strainers, thinners and solvents, undercoating, varnish, waxes, welding rods and disposable or reusable wipes.

(b) **Charges made by service provider.** (1) Motor vehicle repair service providers shall separately state the charge that is attributable to the sale of integral parts and the charge that is attributable to the rendering of motor vehicle repair services on the bill to the customer. Charges for parts and motor vehicle repair services are taxable even when paid for by an insurance company, auto club or other third party on behalf of the customer.

(2) The fact that a motor vehicle was exempt from tax when a recipient of motor vehicle repair services purchased it does not mean that repair services rendered to it are not taxable. Thus, for example, repair services to a truck used exclusively in agricultural production are taxable, even though the purchase of the truck was exempt under section 12-412(63) of the general statutes.

(c) **Taxability of items used in rendering motor vehicle repair services.** (1) Sales of repair parts to a service provider who uses the parts in rendering motor vehicle repair services are sales for resale to such provider if, when used, such parts or materials become an integral part of the motor vehicle.

(2) Providers of motor vehicle repair services may purchase certain materials on resale where such property is purchased solely for a particular customer, as long

as the charge for such materials will be separately stated on the bill to the customer and tax collected thereon. Examples of such materials include acrylic finishes, enamels, lacquers and paint.

(3) Since providers of motor vehicle repair services are considered to be consumers of supplies used in rendering their services, sales of tangible personal property, other than integral parts, to a motor vehicle repair services provider that uses such property in repairing, restoring, rebuilding, replacing parts of or maintaining motor vehicles are retail sales to such provider and are subject to tax.

(4)(A) Providers of motor vehicle repair services may purchase motor vehicle repair services on a resale basis (see Conn. Agencies Regs. § 12-407(2)(i)-1 for rules regarding the resale of services).

(B) Retailers of motor vehicles who purchase motor vehicle repair services for motor vehicles that such retailers are holding for sale, lease or rental in the normal course of business may purchase the motor vehicle repair services and the integral parts, as provided in this subsection, on resale.

(d) **Motor vehicle repair services rendered under maintenance, repair or warranty contract.** See Conn. Agencies Regs. § 12-407(2)(i)(DD)-1 for rules regarding the taxation of motor vehicle repair services rendered under maintenance, repair or warranty contracts.

(e) **Where motor vehicle repair services are deemed to be rendered.** (1) Motor vehicle repair services shall be taxable if the repairs to the motor vehicle are made in Connecticut. If the repairs are made within Connecticut, the sale of motor vehicle repair services shall be taxable, notwithstanding the fact that the materials consumed in rendering such services were purchased outside Connecticut, the contract for services was negotiated or executed outside Connecticut, the bill or invoice for such services is mailed to or from an address outside Connecticut, some of the work with respect to such services is performed for the motor vehicle repairer outside Connecticut, or the purchaser of the services is a nonresident. However, when a Connecticut motor vehicle repairer picks up a motor vehicle from outside Connecticut, or a motor vehicle is shipped from outside Connecticut to the repairer in Connecticut, the motor vehicle is repaired in Connecticut, and then is delivered or shipped to the customer at an out-of-state location, the repair services, and any integral parts sold therewith, are not taxable in Connecticut.

(2) Persons purchasing motor vehicle repair services from out-of-state retailers shall pay Connecticut use tax on such purchases if the motor vehicle to which such repair services are rendered is intended for use and is used in Connecticut.

(Adopted effective April 7, 1999)